



U.S. Department of Justice

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June 15, 2022

VIA ECF

The Honorable Richard M. Gergel
 U.S. District Judge, District of South
 Carolina
 P.O. Box 835
 Charleston, SC 29402

Dear Judge Gergel,

As the Court may recall, during the June 2019 Case Management Conference, the Court invited the parties to submit significant developments that may relate to the AFFF multi-district litigation as they occur. *See* June 21, 2019 Hr'g Tr. at 25:7-20.

Today, the U.S. Environmental Protection Agency (“EPA”) issued four lifetime drinking water health advisories for certain per- and poly-fluoroalkyl substances (“PFAS”). A lifetime drinking water health advisory identifies levels to protect all people, including sensitive populations and life stages, from adverse health effects resulting from exposure throughout their lives to a compound. The health advisories are non-enforceable and non-regulatory, but they provide technical information to drinking water system operators, as well as federal, state, Tribal, and local officials, on health effects, analytical methodologies, and treatment technologies associated with drinking water contamination. In 2016, EPA issued drinking water health advisories for perfluorooctane sulfonate (“PFOS”) and perfluorooctanoic acid (“PFOA”) in the amount of 70 parts per trillion (“ppt”)¹ individually or combined.

¹ Different units are sometimes used; 70 ppt is the same as 70 nanograms per liter (ng/L) and 0.07 micrograms per liter (µg/L or ug/L).

EPA now has issued new, interim lifetime drinking water health advisories² for PFOS and PFOA, and final lifetime drinking water health advisories for hexafluoropropylene oxide dimer acid and its ammonium salt (“GenX Chemicals”) and perfluorobutane sulfonic acid and its potassium salt (“PFBS”). The new lifetime health advisory levels are as follows:

Chemical	Lifetime Health Advisory Level (ppt)
PFOA (interim)	0.004
PFOS (interim)	0.02
GenX Chemicals (final)	10
PFBS (final)	2,000

The lifetime drinking water health advisories, and information about them, can be accessed at <https://www.epa.gov/sdwa/drinking-water-health-advisories-pfoa-and-pfos> and <https://www.epa.gov/sdwa/drinking-water-health-advisories-genx-chemicals-and-pfbs>.

Additionally, today EPA reaffirmed that it will provide \$1 billion in fiscal year 2022 grant funding through the Bipartisan Infrastructure Law’s Emerging Contaminants in Small or Disadvantaged Communities Grant Program. This is the first of \$5 billion in grant funding through the Bipartisan Infrastructure Law for small or disadvantaged communities. *See generally* ECF No. 2125 at 2. EPA announced that it will solicit letters of interest from states, tribes, and territories annually to help determine allocations, which will be awarded as non-competitive grants based on an allocation formula. The states, tribes, and territories receiving grants have discretion to administer the funds to water systems that meet the state’s definition of a small or disadvantaged community in order to address any emerging contaminants in addition to PFAS. More can be found at <https://www.epa.gov/sdwa/questions-and-answers-drinking-water-health-advisories-pfoa-pfos-genx-chemicals-and-pfbs>.

The White House has also announced that, in the coming weeks, EPA will issue a proposed rule to designate PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”). Additional information from the White House’s announcement can be found at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/15/fact-sheet-biden-harris-administration-combatting-pfas->

² EPA issues an interim health advisory when a contaminant’s associated health effects assessment is in draft form, but there is a pressing need to provide information to public health officials prior to finalization of the health effects assessment.

pollution-to-safeguard-clean-drinking-water-for-all-americans/. The Department of Justice will continue to provide the Court and all parties information about any proposed rule as it becomes available.

Respectfully submitted,

/s/ Frederick G. Hall
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cc: Counsel of Record (*via ECF*)